

AGENDA
FREMONT REDEVELOPMENT AGENCY REGULAR MEETING
APRIL 28, 2009
7:00 P.M.

1. CALL TO ORDER

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the Redevelopment Agency and will be enacted by one motion and one vote. There will be no separate discussion of these items unless an Agency Member or citizen so requests, in which event the item will be removed from the Consent Calendar and considered in its normal sequence on the agenda. Additionally, other items without a "Request to Address the Redevelopment Agency Board" card in opposition may be added to the consent calendar. (In the report section of the agenda, consent items are indicated by an asterisk.)

2.1 *Approval of Minutes for the Regular Meeting of October 7, 2008, the Special and Regular Meetings of April 7, 2009, and the Special Meeting of April 14, 2009.*

2.2 *SERVICE AGREEMENTS WITH EKI, INC., AND HARRIS & ASSOCIATES FOR ENVIRONMENTAL REMEDIATION OF THE FORMER UNION PACIFIC PROPERTY AND EXISTING CITY PARKING LOTS IN NILES*

Consideration of Service Agreements between the Redevelopment Agency and Erler & Kalinowski, Inc. (EKI) for Environmental Consulting Services, and the Agency and Harris & Associates for Project Management and Construction Management Services for Phase 2 of the Environmental Remediation of the Former Union Pacific Railroad Property and Environmental Remediation of the Existing City Parking Lots in Niles

Contact Person:

Name: Josh Huber

Elisa Tierney

Title: Project Manager

Director

Dept.: Redevelopment Agency

Redevelopment Agency

Phone: 510-494-4513

510-494-4501

E-Mail: jhuber@fremont.gov

etierney@fremont.gov

RECOMMENDATION: Authorize the Executive Director, or his designee, to execute:

- 1. A Professional Services Agreement with Erler & Kalinowski, Inc., for Environmental Consulting Services for Phase 2 of the environmental remediation of the former Union Pacific Property in Niles in an amount not to exceed \$395,000; and,*
- 2. A Professional Services Agreement with Harris & Associates, Inc., for Project and Construction Management Services for Phase 2 of the environmental remediation of the former Union Pacific Property in Niles in an amount not to exceed \$275,364.*
- 3. Transfer appropriation of \$735,364 from 951 RDA 3111 to 951 PWC 8700.*

2.3 *IDENTITY THEFT PREVENTION PROGRAM*

Adopt a Resolution Approving an Identity Theft Prevention Program to Protect Confidential Borrower Information for Redevelopment Agency Loans

Contact Person:

<i>Name:</i>	<i>Elisa Tierney</i>	<i>Harriet Commons</i>
<i>Title:</i>	<i>Redevelopment Agency Director</i>	<i>Director</i>
<i>Dept.:</i>	<i>Office of Housing & Redevelopment</i>	<i>Finance</i>
<i>Phone:</i>	<i>510-494-4501</i>	<i>510-284-4010</i>
<i>E-Mail:</i>	<i>etierney@fremont.gov</i>	<i>hcommons@fremont.gov</i>

RECOMMENDATION: Adopt a resolution approving an Identity Theft Prevention Program in order to protect confidential borrower information for Redevelopment Agency loans.

3. PUBLIC COMMUNICATIONS

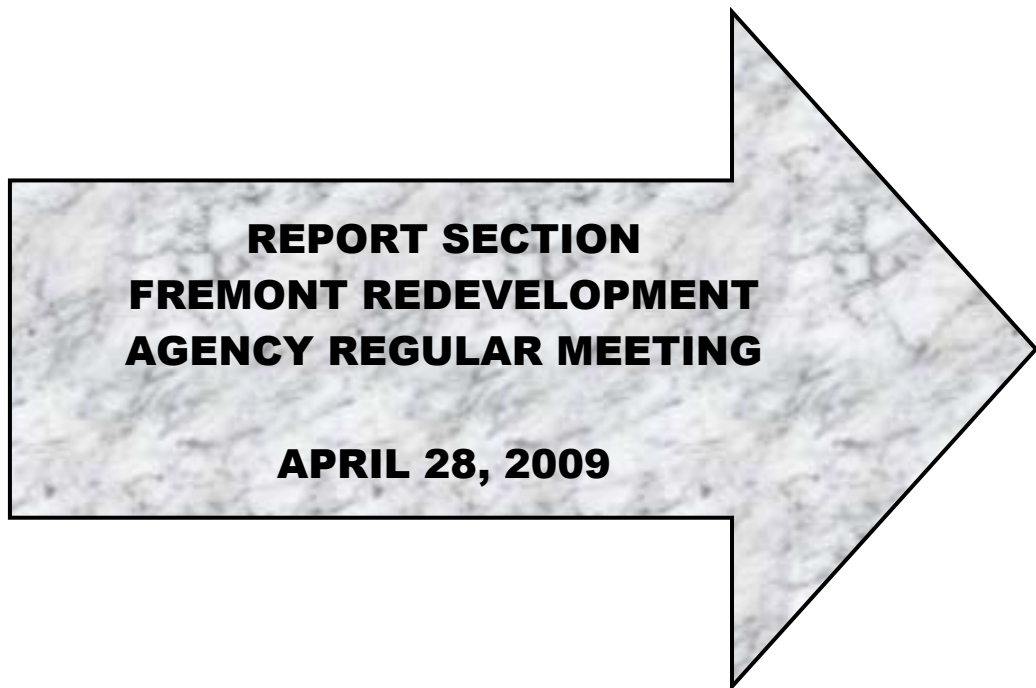
3.1 Oral and Written Communications

4. PUBLIC HEARINGS – None.

5. OTHER BUSINESS

5.1 Report Out from Closed Session of Any Final Action

6. ADJOURNMENT



**REPORT SECTION
FREMONT REDEVELOPMENT
AGENCY REGULAR MEETING**

APRIL 28, 2009

***2.2 SERVICE AGREEMENTS WITH EKI, INC., AND HARRIS & ASSOCIATES FOR ENVIRONMENTAL REMEDIATION OF THE FORMER UNION PACIFIC PROPERTY AND EXISTING CITY PARKING LOTS IN NILES**

Consideration of Service Agreements between the Redevelopment Agency and Erler & Kalinowski, Inc. (EKI) for Environmental Consulting Services, and the Agency and Harris & Associates for Project Management and Construction Management Services for Phase 2 of the Environmental Remediation of the Former Union Pacific Railroad Property and Environmental Remediation of the Existing City Parking Lots in Niles

Contact Person:

Name:	Josh Huber	Elisa Tierney
Title:	Project Manager	Director
Dept.:	Redevelopment Agency	Redevelopment Agency
Phone:	510-494-4513	510-494-4501
E-Mail:	jhuber@fremont.gov	etierney@fremont.gov

Executive Summary: This item requests the Agency Board approve two Service Agreements for consulting services for Phase 2 of the environmental remediation of the former Union Pacific Railroad Property (“UP Property”), as well as the remediation of the two existing City-owned parking lots in Niles. One Service Agreement is with Erler & Kalinowski, Inc. (“EKI”) to develop the Remedial Design and Implementation Plan (“RDIP”), assist with remediation contract document and technical specifications preparation, and provide environmental consulting services during Phase 2 remediation work, for a consulting contract amount not to exceed \$395,000. The second Service Agreement is with Harris & Associates to provide project management and construction management services on behalf of the Agency during remedial design project planning and throughout the Phase 2 soil remediation project for a consulting contract amount not to exceed of \$275,364.

BACKGROUND: The site is depicted in the enclosed aerial photograph. The portions of the site shaded in yellow and in green together make up the former UP site. The Agency originally obtained possession of the former Union Pacific (UP) railyard in February 2000 through condemnation. The portion of the site occupied by two parking lots was acquired from UP through a separate transaction in 1978. In 2005, the City and Agency reached final settlement with UP on the final compensation amount, which reflected the liability of environmental contamination of soils on the site caused by railroad operations. With this settlement agreement, the Agency and City assumed responsibility for the environmental remediation of the entire site, including the parking lots already owned by the City of Fremont. In early 2008, the Agency completed the first phase of environmental remediation on the site which cleaned the portion of the site slated for the Niles Town Plaza, which is currently under development. The Niles Town Plaza site is shaded in yellow.

DISCUSSION/ ANALYSIS: These service agreements will fund services essential to the successful completion of the environmental remediation of the remainder of this former railyard during the Phase 2 remediation project (the portions of the site shaded in green). EKI and Harris staff performed identical roles to those contemplated in this staff report during the first phase of remediation of the former UP property. Approximately 11,000 tons of arsenic, lead, and petroleum-impacted soils were removed during the Phase 1 remediation project. Similar to the Phase 1 project, the Phase 2 remediation project

will include focused excavation of arsenic, lead, and petroleum-impacted soils in order to facilitate future development of the remainder of the site. The work done by EKI and Harris staff during the first phase of the project resulted in a clean site and the final remediation project cost was roughly 20% under the allocated budget.

Selection Process

Requests for Proposals (RFPs) were issued separately for each contract. Six firms submitted proposals for environmental consulting services. Harris was the only firm that responded to the RFP for project and construction management services. EKI was selected based on their demonstrated competence and qualifications to meet the city's project needs. EKI is familiar with the project and has the ability to successfully complete the work as demonstrated during the first phase of remediation.

Services

As in Phase 1, EKI will complete the Remedial Design and Implementation Plan ("RDIP") and work to secure its approval by the California Department of Toxic Substances Control (DTSC). EKI will prepare the RDIP under an existing Remedial Action Plan ("RAP"), which the firm prepared in 2006 for the entirety of the UP property including the parking lots. The DTSC-approved RAP provides the regulatory framework and cleanup goals for the Phase 2 remediation project. EKI will also assist City staff in remediation project contract document and technical specification preparation; contract bidding; field support (e.g., inspection and sampling) during remediation work; and regulatory agency coordination. The EKI Project Manager selected for the Phase 2 remediation project is the same Project Manager that represented EKI and managed their environmental consulting services during the Phase 1 remediation project.

Harris and Associates will provide overall project and construction management services on behalf of the Agency for the Phase 2 soil remediation project, as the firm did during the Phase 1 remediation project. Harris staff will prepare remediation project contract document and technical specifications in conjunction with EKI; manage the remediation contract bidding process; monitor the Contractor's daily activities during remediation to ensure compliance with the contract documents; negotiate change orders for approval by the Agency; and recommend payment amounts on Contractor invoices. The Harris Project Manager selected for the Phase 2 remediation project is the same Project Manager that represented the City and the Agency and delivered project and construction management services during the Phase 1 remediation project.

The EKI and Harris key personnel proposed for the Phase 2 remediation project are instrumental in the Agency's recommendation to award the work to both consultants. These personnel also possess the necessary hazardous materials training certifications required by the United States Department of Labor, Occupational Safety and Health Administration ("OSHA") required for management and implementation of the Phase 2 hazardous materials remediation project.

FISCAL IMPACT: Funding has previously been appropriated and no further appropriations for these service agreements are necessary. Funding will be transferred from existing account 951RDA3111 to a new Public Works Contract (PWC 8700). Total expenditures will not exceed \$735,364 (which includes funding for these two agreements, \$50,000 in estimated staff costs, and \$15,000 for legal costs associated with this project).

ENVIRONMENTAL REVIEW: Activities to be performed by the Consultants under these Service Agreements do not constitute a project under the meaning of CEQA and therefore no environmental review is necessary. Appropriate CEQA documents will be prepared and reviewed for the remediation projects as the project specifications work progresses and before award of a construction contract for the remediation work.

ENCLOSURE: Aerial photograph of subject site

RECOMMENDATION: Authorize the Executive Director, or his designee, to execute:

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2. A Professional Services Agreement with Harris & Associates, Inc., for Project and Construction Management Services for Phase 2 of the environmental remediation of the former Union Pacific Property in Niles in an amount not to exceed \$275,364.
3. Transfer appropriation of \$735,364 from 951 RDA 3111 to 951 PWC 8700.

***2.3 IDENTITY THEFT PREVENTION PROGRAM**

Adopt a Resolution Approving an Identity Theft Prevention Program to Protect Confidential Borrower Information for Redevelopment Agency Loans

Contact Person:

Name:	Elisa Tierney	Harriet Commons
Title:	Redevelopment Agency Director	Director
Dept.:	Office of Housing & Redevelopment	Finance
Phone:	510-494-4501	510-284-4010
E-Mail:	etierney@fremont.gov	hcommons@fremont.gov

Executive Summary: This report recommends that the Agency Board approve an identity theft prevention program in order to protect confidential information retained by the Agency in connection with certain types of home loans. Federal regulations require that the Agency enact and implement such a program, which is designed to detect and prevent identity theft.

BACKGROUND: The Federal Trade Commission (FTC) has issued regulations requiring financial institutions and creditors to develop and implement written identity theft prevention programs, as part of the Fair and Accurate Credit Transactions Act of 2003. The regulations were scheduled to go into effect on November 1, 2008, but the FTC has delayed enforcement until May 1, 2009. The program must provide for the identification, detection and response to patterns, practices or specific activities that could indicate identity theft. These activities have been referred to as “Red Flags” and these federal regulations are commonly referred to as the “Red Flag Rules.”

The regulations apply to government entities in cases where such entities are “creditors” with “covered accounts.” The FTC considers a government entity to be a creditor when it defers payment for goods, services or debt by its customers, the most common example being public utilities, such as water and wastewater. A covered account means an account that is used primarily for family, personal or household purposes and involves or is designed for multiple payments or transactions, or any other account that involves a foreseeable risk of identity theft. In this case, the Agency’s covered accounts consist of certain types of home loans, such as downpayment assistance to first time homebuyers and for rehabilitation purposes. Non-compliance with the regulations could result in federal or state civil actions and administrative fines.

The identity theft prevention program must include the following four basic elements: (1) identify relevant warning signs, including patterns, practices or specific activities that are indicative of identity theft, i.e., “red flags;” (2) monitor the covered accounts to detect the red flags (i.e., signs of suspicious activities) that have been incorporated into the program; (3) provide for appropriate responses to such red flags in order to prevent or mitigate identity theft with respect to the covered account; and (4) detail a plan to periodically update the program.

The FTC regulations also require the Agency to manage the program, and provide for appropriate staff training and oversight of the program. The regulations allow for flexibility such that the Agency may tailor the program in accordance with the size, complexity and nature of its operations. Attached is an

identity theft prevention program that was developed from other cities' programs to comply with the federal regulations and has been modified to fit Agency operations.

Agency staff also uses credit reports as part of the loan application process. Accordingly, pursuant to FTC regulations, the program includes steps to take in the event that the Agency receives a "notice of address discrepancy" from a credit reporting company. A "notice of address discrepancy" means a notice that informs the Agency of a substantial difference between the address that the loan applicant provided to the Agency, and the address that the credit reporting company has on file. If the Agency receives such a notice, staff will take steps to verify the address and, if accurate, provide it to the credit reporting company.

ENCLOSURES:

- Draft Resolution
- Draft Identity Theft Prevention Program

RECOMMENDATION: Adopt a resolution approving an Identity Theft Prevention Program in order to protect confidential borrower information for Redevelopment Agency loans.

5.1 Report Out from Closed Session of Any Final Action